



U.S. Department
of Transportation
**Federal Highway
Administration**

Maryland Division
City Crescent Building
10 S. Howard Street
Suite 2450
Baltimore, Maryland 21201

October 20, 2004

Mr. Neil J. Pedersen
State Highway Administrator
Maryland State Highway Administration
707 North Calvert Street
Baltimore, Maryland 21202

Reply to: HDA-MD

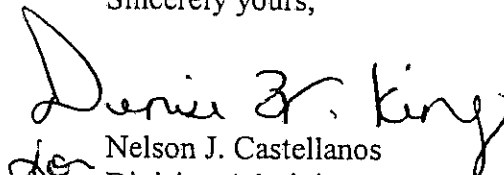
Attn: Mr. Douglas H. Simmons

Dear Mr. Pedersen:

Re: Project No: MO746B11
MD 97 Brookeville Project from South of Gold Mine Road to North of Holiday Drive
Montgomery County, Record of Decision

Enclosed is a signed Record of Decision for the MD 97 Brookeville Project from South of
Gold Mine Road to North of Holiday Drive. Project Development may proceed. Please
make appropriate public notification of this approval.

Sincerely yours,


Nelson J. Castellanos
Division Administrator

Enclosure

cc:

Mr. Joseph Kresslein, SHA
Ms. Cynthia Simpson, SHA
Mr. Raja Veeramachaneni, SHA

Federal Highway Administration - Maryland Division Office**MD 97 BROOKEVILLE PROJECT
FROM SOUTH OF GOLD MINE ROAD TO NORTH OF HOLIDAY DRIVE
FINAL ENVIRONMENTAL IMPACT STATEMENT
AND SECTION 4(f) STATEMENT
MONTGOMERY COUNTY, MARYLAND****RECORD OF DECISION****A. DECISION****1. Purpose and Need**

The MD 97 Brookeville Project proposes transportation improvements to MD 97 (Georgia Avenue) in the vicinity of the Town of Brookeville in Montgomery County, Maryland. The purpose and need of this project is to remove the continually increasing traffic volumes from Brookeville, improve traffic operations and safety conditions on existing MD 97, and preserve the historic character of the town. The project area extends approximately two miles from south of Gold Mine Road to north of Holiday Drive and includes the corporate limits of the Town of Brookeville which is the boundary of the Brookeville Historic District as listed in the National Register of Historic Places. A more detailed discussion of the purpose and need for the project can be found in Section I of the DEIS/FEIS.

2. Decision on the Selected Alternate

The Selected Alternate for transportation improvements is Alternate 7 Modified, which proposes a two-lane roadway on new location west of Brookeville and existing MD 97. Access points would occur at roundabouts located at Brookeville Road in the north, and at the southern termini just north of Gold Mine Road. The Selected Alternate will have a 40-mph design speed and an open typical section that will consist of two 11-foot travel lanes, 10-foot graded shoulders (5-foot paved), and safety grading. The proposed typical section for the Selected Alternate and the location of the Build Alternates considered including the Selected Alternate are provided in the FEIS on Figure II-1 and Figure II-2, respectively.

Alternate 7 Modified is selected as a result of post-DEIS coordination with resource agencies, including the Maryland Historical Trust (MHT) and jurisdictional officials and owners of impacted parkland (Maryland-National Capital Park and Planning Commission (M-NCPPC) and Montgomery County). Based on results of post-DEIS Phase II archeological reconnaissance, Alternate 7 Modified was developed to reduce impacts to the National Register eligible Newlin/Downs Mill Complex archeological site, located within the Brookeville Historic District south of Brookeville Road. Alternate 7 Modified is similar to the DEIS Alternate 7 alignment except that Alternate 7 Modified has been shifted approximately 30-40 feet in a westerly direction through the Reddy Branch Stream Valley Park. A retaining wall is proposed south of Brookeville Road and east of

the proposed roundabout to further reduce impacts to the Newlin/Downs Mill Complex site located within the Historic District. The proposed retaining wall would also minimize the use of Reddy Branch Stream Valley Park where the public park overlaps the Brookeville Historic District.

B. ALTERNATES CONSIDERED

A summary of the alternates considered is presented below. A detailed description of these alternates is presented in Section II of the MD 97 Brookeville DEIS and/or FEIS. All of the build alternates proposed a two-lane relocation of MD 97 with continuous five-foot paved shoulders. Both open and closed section roadways were evaluated for each alternate, and roundabouts were proposed at both the southern and northern termini to comply with Smart Growth criteria set forth for the project.

1. Alternate 1 (*not selected*)

Alternate 1 (No-Build) proposed no major improvements to the existing two-lane, undivided roadway, which has shoulder widths ranging from zero to five feet. The existing roadway has both horizontal and vertical deficiencies, which limit sight distance and compromise safety, and also includes a "T" intersection at Market Street, which increases traffic congestion. Alternate 1 (No-Build) is not selected because it does not satisfy the purpose and need of the project.

2. Alternate 5C (*not selected*)

Alternate 5C proposed a 2.1-mile long bypass on the east side of Brookeville. This alignment departed from existing MD 97 in a northeasterly direction near Gold Mine Road and rejoined existing MD 97 approximately 2,000 feet north of the proposed Bordly Drive. Alternate 5C was the longest and the most expensive alternate considered, but was retained in the DEIS because it avoided the use of property from within the Brookeville Historic District.

Alternate 5C is not selected because of substantially higher project costs, lack of public support, community impacts including five residential and one business displacement, greater woodland, and prime farmland soil impacts as compared to the Selected Alternate. The cost of Alternate 5C (\$34.2 million) is nearly triple that of the Selected Alternate. Alternate 5C is the only alternate that impacted two public parks (Hawlings River Stream Valley Park and Reddy Branch Stream Valley Park) and bisected Reddy Branch Stream Valley Park to the east of Brookeville. It is also not compatible with the local comprehensive plans.

3. Alternate 7 (*not selected*)

Alternate 7 proposed a 0.7-mile long bypass on the west side of Brookeville. Alternate 7, designed for 40-mph, began at a roundabout located west of MD 97 and north of the Longwood Community Center. The alternate connected to existing MD 97

approximately 700 feet north of the intersection with Brookeville Road. Alternate 7 would cost an estimated \$12.2 million.

Alternate 7 is not selected because it results in greater impacts to the Brookeville Historic District and the Newlin/Downs Mill Complex archeological site when compared to the Selected Alternate 7 Modified, which is similar to Alternate 7 except for a 30-40 foot shift to the west which minimizes impacts to the core of the archeological site.

4. Alternate 8A: Roundabout (*not selected*)

Alternate 8A proposed a 0.9-mile long bypass on the west side of Brookeville (west of Alternate 7), with a 40-mph design speed. It departed from existing MD 97 just south of the Longwood Community Center and headed in a northwesterly direction, passing through a roundabout at the same location as that proposed in Alternate 7. The alignment connected to existing MD 97 approximately 600 feet north of the intersection with Brookeville Road. The cost for Alternate 8A is \$13.7 million.

Alternate 8A is not selected because of the lack of public support, greater cost and greater impacts to the natural environmental, cultural resources, and Reddy Branch Stream Valley Park when compared to the Selected Alternate 7 Modified.

5. Alternate 8B: Bridge (*not selected*)

Alternate 8B proposed a 0.9-mile long bypass on the west side of Brookeville (west of Alternate 7), with a 50-mph design speed. This alternate followed a similar alignment as Alternate 8A through the roundabout, then curving to the east, crossed Brookeville Road on a bridge approximately 600 feet west of the intersection with existing MD 97. It connected to MD 97 with a three-leg roundabout (one for the bypass and two for existing MD 97) located approximately 800 feet north of the intersection of Brookeville Road. The cost for Alternate 8B is \$18 million.

Alternate 8B is not selected because of lack of public support, its higher cost, and greater environmental and cultural resource impacts when compared to the Selected Alternate 7 Modified.

6. Alternate 7 Modified (*Selected Alternate*)

Alternate 7 Modified is selected because it is consistent with state and local planning goals, minimizes most impacts to cultural, socio-economic, and natural environmental resources, and best meets the purpose and need of the project. It requires right-of-way from the fewest properties (11); impacts the least amount of prime farmland soils (4.5 acres); statewide important soils (1.6 acres); and requires only 9.0 acres of forest cover; 0.12 acres of wetlands; only slightly more encroachment on the 100-year floodplain (3.2 acres) than other alternates considered. While the Selected Alternate does impact more linear feet of stream than other alternates considered, it should be noted that the stream

mitigation requirements for this project would provide the opportunity to enhance several degraded portions of Reddy Branch within the park.

The Selected Alternate will not require residential or business displacements, and no individuals or families will need to be relocated. No minority and low-income populations were identified in the project area. One of two publicly owned public parks in the study area (Reddy Branch Stream Valley Park) would be impacted. The Selected Alternate is in close proximity to a currently active underground storage tank north of the proposed roundabout along MD 97. If impacted, formal Phase I and possibly Phase II studies would be warranted to investigate potential liability issues. Three noise sensitive areas, which include five residences, may require noise abatement.

Cultural Resources within the study area include the Brookeville Historic District, listed on the National Register of Historic Places, and Bordley's Choice, determined eligible for the National Register. The Selected Alternate will have no effect on Bordley's Choice. The results of Phase I and Phase II archeological reconnaissance indicate that the Newlin/Downs Mill Complex archeological site, partially located within the Brookeville Historic District [where it overlaps the Reddy Branch Stream Valley Park and extends to the west within the park], is also considered eligible for the National Register. The MHT, in the capacity as the Maryland State Historic Preservation Officer (MDSHPO) has concurred that all of the alternates, including the Selected Alternate, will have an Adverse Effect on cultural resources.

The \$12.5 million dollar cost of the Selected Alternate is estimated to be about \$300,000 more expensive than Alternate 7, which is the least expensive of the Build Alternates. This additional cost is to build the proposed retaining wall in order to minimize impacts to the National Register eligible Newlin/Downs Mill archeological site. The retaining wall reduces Section 4(f) use to 1.7 acres (from 2.2 acres) of the Brookeville Historic District and avoids the core of the archeological site. It also minimizes the use of Reddy Branch Stream Valley Park by reducing public parkland use from 6.6 acres to 5.6 acres for the Selected Alternate. Based on these findings, and as a result of interagency coordination that occurred through the Maryland Streamlined Environmental and Regulatory Process, it is concluded that the Selected Alternate 7 Modified is the least environmentally damaging practical alternate of those studied.

A detailed evaluation of the environmental impacts of the MD 97 Brookeville Planning Study alternates was presented in Section IV (Environmental Consequences) of the MD 97 FEIS/Section 4(f) Evaluation. An Environmental Impact Summary Table can be found in the Executive Summary of the DEIS/FEIS.

C. SECTION 4(f) EVALUATION

1. Impacts to Section 4(f) Resources

The Section 4(f) resources impacted by the Selected Alternate include the Reddy Branch Stream Valley Park and the Brookeville Historic District. The FHWA has determined

that the FEIS/Section 4(f) Evaluation document adequately discusses environmental impacts, demonstrates that there is no feasible and prudent alternate that would avoid Section 4(f) properties and demonstrates that the Selected Alternate (which uses land from the Brookeville Historic District and Reddy Branch Stream Valley Park) is the alternate, counting mitigation, that will have the least impact on Section 4(f) resources. A detailed evaluation of the environmental impacts of the MD 97 Brookeville Study alternates was presented in Section V of the MD 97 FEIS/Section 4(f) Evaluation.

a. Reddy Branch Stream Valley Park

Selected Alternate 7 Modified would impact a total of 5.62 acres of Reddy Branch Stream Valley Park in two locations, one to the east of MD 97 and one to the west of MD 97. The portion of the park impacted east of MD 97 is owned by Montgomery County and includes 0.24 acre purchased with Maryland Program Open Space Funds. The portion of the park that would be impacted west of MD 97 totals 5.38 acres and is a forested area where portions of the park overlap the Brookeville Historic District. This acreage includes a 2.19 acres parcel also purchased with Maryland Program Open Space funding.

b. Brookeville Historic District

Within the 5.62 acres of Section 4(f) parkland, the Selected Alternate would require 1.66 acres from the Brookeville Historic District, although there would be no direct impacts to historic standing structures or other contributing elements within the District, other than the Newlin/Downs Mill Complex archeological site. The portion of the Brookeville Historic District impacted by the Selected Alternate is wooded with wetlands along Meadow Branch.

Proposed storm water management (SWM) facilities are located in both the Reddy Branch Stream Valley Park and the Brookeville Historic District. Three of the four proposed pond facilities are within Reddy Branch Stream Valley Park, one of which is located where the parkland overlaps the historic district. The location of each SWM facility is based on the proposed drainage patterns once the roadway construction would be complete. In addition to the SWM pond facilities, grass channels would be provided in areas where the runoff could not readily be treated with a pond facility. These grass channels, along with the roadside ditches within the project area, could be utilized to enhance water quality and provide some ground water recharge. As a result, the estimated one-acre of Section 4(f) property to be acquired for SWM is considered to be a conservative maximum estimate and the total 5.62 acre of Section 4(f) impacts may be reduced during final design.

D. MEASURES TO MINIMIZE HARM

All practicable measures to minimize harm have been identified and will be incorporated into the design of the Selected Alternate. These measures include compensation for all residential and commercial property acquisition; standard sediment and erosion control;

stormwater management; and a landscape plan to reduce the visual intrusion on the historic district.

a. Natural Environment

Methods to provide compensatory mitigation for wetland impacts have been coordinated with the United States Army Corps of Engineers (USACOE), the National Marine Fisheries Service (NMFS), the United States Fish and Wildlife Service (USFWS) and the Maryland Department of the Environment (MDE). The Selected Alternate will impact a total of 0.12 acre of wetlands. Replacement mitigation is proposed at a 2:1 ratio for 0.03 acre of palustrine forested and 0.03 acre of palustrine scrub shrub wetlands, and at a 1:1 ratio for 0.06 acre of palustrine emergent wetlands. Therefore, the wetland mitigation proposed for this project totals approximately 0.18 acre. Mitigation for approximately 1,212 linear feet of stream restoration will also be included as part of final design. Stream restoration techniques are likely to include riparian buffer plantings as well as in stream stabilization measures.

In accordance with Maryland's Streamlined Environmental and Regulatory Process, the FEIS served as the USACOE permit application. As a result, a permit will be issued by the USACOE authorizing the construction of the project based on the design commitments made in the FEIS. The following Special Conditions, as summarized below, will be included in the permit.

- The bridge over Reddy Branch shall have sufficient horizontal clearance to provide a 25-foot bench for wildlife on one side of the stream (preferably the north side), and sufficient vertical underclearance to provide a minimum of 8 feet between the surface of the wildlife bench and the bottom of the structure.
- The Permittee shall remove the existing bridge over Reddy Branch that is in the portion of MD 97 (Georgia Avenue) being abandoned. This will provide for a more natural riparian wildlife corridor.
- A 2-cell box culvert shall be constructed to carry the bypass over Meadow Branch. During normal flows, one cell will carry the base flow of the stream and the other cell [dry cell] will be designed for wildlife passage. Both cells will carry water during flood state. This culvert is expected to result in the loss of 85 feet of stream channel length because it displaces a stream meander. Measures will need to address the increase in velocity and to ensure that the project does not result in head cutting.
- Wetland loss of 0.12 acre shall be mitigated by constructing 0.18 acre on property owned by MNCPPC within Reddy Branch Stream Valley Park, along Brighton Dam Road. The mitigation site will be constructed concurrently with the roadway project. All of these plans will be made available to the USACOE for review prior to proceeding with the roadway construction.

- Wetland mitigation project shall be monitored by the wetland consultant for 5 growing seasons following initial planting and shall be responsible to recommend any remedial measures that may be considered necessary to meet the performance standards.
- Mitigation shall be provided for the estimated 1,212 feet of stream impacts by constructing an equivalent length of stream improvements and restoration features in Meadow Branch.

b. Reddy Branch Stream Valley Park

Through ongoing coordination with M-NCPPC and state and federal resource agencies, measures were developed to minimize harm and mitigate for the permanent use of Reddy Branch Stream Valley Park property which include identification of suitable replacement parkland, stormwater management design, mitigation of floodplain impacts, specific design requirements for the culvert type and size at Meadow Branch, mitigation for loss of forested areas, and design of a wildlife passage along Reddy Branch. In addition, SHA will coordinate with M-NCPPC officials regarding the development of detailed design for the temporary use of the M-NCPPC property, approved stream restoration and wetland mitigation locations within Reddy Branch Stream Valley Park, and sediment and erosion controls. Construction fences will be placed around specific trees that will be identified by M-NCPPC and DNR for protection. Wetland mitigation areas in the park will also be monitored and maintained in conformance within the five-year timeframe specified in the Section 404 permit.

Mitigation for both the temporary and Section 4(f) permanent use of public parkland are addressed in the FEIS/Section 4(f) Evaluation. Appendix B of the Section 4(f) Evaluation includes M-NCPPC's signed concurrence of parkland mitigation as presented in SHA correspondence dated November 25, 2003. Appendix B also includes M-NCPPC's concurrence letter dated May 1, 2003 approving temporary use of sites in Reddy Branch Stream Valley Park for stream restoration and wetland replacement.

c. Cultural Resources

The MDSHPO has been consulted on the determination that the Selected Alternate will have an adverse effect on the National Register listed Brookeville Historic District and the National Register eligible Newlin/Downs Mill Complex archaeological site. Final Design of the Selected Alternate will be implemented in accordance with the mitigation measures, as outlined in the Section 106 Memorandum of Agreement (MOA) among the FHWA, MDSHPO and SHA. The executed MOA was included as an appendix to the FEIS. Stipulations of the agreement include the following:

- SHA will design a landscape plan to reduce the visual intrusion of the Selected Alternate 7 Modified on the historic district.

- SHA will coordinate with M-NCPPC and the MDSHPO concerning the development and placement of an interpretive sign at the Newlin/Downs Mill Complex, along the Oakley Cabin Trail, concerning its historic significance. The panel will satisfy the public interpretive component of the proposed data recovery treatment of the Newlin/Downs Mill Complex, a contributing resource to the Brookeville Historic District.

Appropriate consultation with other interested parties occurred during the development of the terms of the MOA, and included M-NCPPC, as portions of the Brookeville Historic District are within Reddy Branch Stream Valley Park, which, is under M-NCPPC's jurisdiction.

d. Smart Growth

The Town of Brookeville is located within a Priority Funding Area (PFA) as designated by Montgomery County, where state funds may be spent on additional infrastructure that supports or encourages growth. An agreement with local elected officials, MDOT, and the Governor's Office set four specific criteria to be met for design and construction of the project. Following this agreement, the MD 97 Brookeville Project was included in the FY 2003-2008 Maryland Consolidated Transportation Program for Project Planning. The four criteria and the actions taken to meet those criteria are as follows:

1. An amendment to the Annual Growth Policy was adopted by the Montgomery County Council on April 6, 1999 in response to the condition that Montgomery County adopt restrictions that prevent the bypass from allowing sprawl development outside the current boundaries of the Town of Brookeville.
2. In response to the condition that a permanent easement must border the entire roadway to ensure that no future access, widening, or connection to the bypass is possible, the Maryland Environmental Trust (MET) has tentatively agreed to hold the easement pending the development of the Letter of Commitment and the Memorandum of Understanding (MOU). An exact amount and location of this easement will be determined during the Final Design phase of this project. Metes and Bounds Plats will be prepared and will be part of the MOU.
3. A roundabout is proposed north of Brookeville Road to limit traffic capacity through the area in response to the condition that MDOT and the Montgomery County and Howard County governments must work out a safe "traffic calming" point north of the bypass to limit future traffic to the current capacity of MD 97 through Brookeville.
4. These controls serve to further ensure that rural areas and open space are preserved, the environment is healthy, and thriving communities enjoy their quality of life. However, if for any reason these controls fail, Montgomery County will reimburse the state for the full cost of the bypass.

Project coordination through Maryland's Streamlined Environmental and Regulatory Process, resulted in the Selected Alternate and Conceptual Mitigation (SACM) Package receiving concurrence without comment from FHWA, USACOE, USFWS, Maryland Department of the Environment (MDE), and Metropolitan Washington Council of Government (MWCOG). Agency concurrence with minor comments was received from the United States Environmental Protection Agency (USEPA) and the Maryland Department of Natural Resources (DNR). Both agencies expressed support of the evaluation of the north-side wildlife passage and DNR offered continued coordination with SHA regarding mitigation designs. The Maryland Department of Planning (MDP) concurred commenting that the Selected Alternate best minimizes the potential of encouraging secondary sprawl-development while meeting the Purpose and Need of the MD 97 Brookeville Project. In response, coordination is ongoing between SHA and MET and will be resolved during Final Design.

F. MONITORING AND ENFORCEMENT

As a part of the commitment to continue efforts to minimize impacts from the project, several monitoring and coordination efforts have been proposed as outlined in the Section 404 Permit of the FEIS. Monitoring programs will consist primarily of the conditions of the Section 404 Permit with respect to wetlands. The USACOE will monitor the wetland mitigation project for five growing seasons following initial planting and shall be responsible for recommending any remedial measures that may be considered necessary to meet the performance standards. To ensure compliance with all appropriate federal and state regulations, all necessary permits will be obtained prior to construction. The permit from the USACOE for any work in waterways or wetland areas will satisfy the requirements of section 401/404 of the Clean Water Act (33 USC 1344).


Coordination with appropriate federal, state and local agencies, including but not limited to the USACOE, USFWS, USEPA, NMFS, DNR, MDSHPO, MET and M-NCPPC will continue during Final Design to ensure that the MD 97 FEIS/Section 4(f) Evaluation mitigation commitments are implemented.

G. COMMENTS RECEIVED ON FINAL ENVIRONMENTAL IMPACT STATEMENT

The Notice of Availability of the FEIS/Section 4(f) Evaluation was published in the *Federal Register* on July 16, 2004. Advertisements announcing the availability of the document were published locally in Washington Post. The notices announced the availability of the FEIS/Section 4(f) Evaluation and the locations where copies of the document were available for public review. A list of agencies, organizations and individuals to which copies of the FEIS/Section 4(f) Evaluation were sent is included in Section VIII of the FEIS.

To date, comments have been received from the Federal Emergency Management Agency (FEMA), and the Environmental Protection Agency (EPA) on the FEIS/Section 4(f) Evaluation. The FEMA requested that SHA coordinate with the Floodplain

Management Officer of Montgomery County to ensure that the project meets the requirements of their floodplain management ordinances, the EPA determined that the Maryland Department of Transportation has adequately addressed its comments within the FEIS. Comments were also received by the Maryland Historical Trust reminding SHA to execute the 2003 Memorandum of Agreement, to mitigate against adverse effects on historic resources. Other local agencies commented reminding SHA to minimize impacts wherever possible. SHA will continue to coordinate with these agencies as this project transitions into the final design phase.



Nelson J. Castellanos
Division Administrator, Maryland Division
Federal Highway Administration



Date